



PUBLIC NOTICE

Federal Communications Commission
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**DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF
SKYBEAM, LLC AND AFFILIATES TO GI DI IRIS ACQUISITION, INC.**

WC Docket No. 22-230

SECTION 310(b)(4) PETITION FOR DECLARATORY RULING

IB File No. ISP-PDR-20220610-00004

PLEADING CYCLE ESTABLISHED

Comments Due: November 3, 2022
Reply Comment Due: November 18, 2022

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by JAB Wireless, Inc. (JAB Wireless), Skybeam, LLC, AirCanopy Internet Services, Inc. (AirCanopy), and Essex Telcom, Inc. (Essex, together with Skybeam, LLC and AirCanopy, the Domestic 214 Authorization Holders), and GI DI Iris Acquisition Inc. (GI DI Iris Acquisition, together with JAB Wireless and the Domestic 214 Authorization Holders, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended (the Act), and sections 63.03-04 of the Commission's rules, requesting approval for the transfer of control of the Domestic 214 Authorization Holders to GI DI Iris Acquisition.¹

The International Bureau also seeks comment on a petition for declaratory ruling filed by JAB Wireless and GI DI Iris Acquisition (together, Petitioners) to permit foreign investment in JAB Wireless, the controlling U.S. parent of Digis, LLC, LP Broadband, Inc., Rhino Communications, Inc., Skybeam Acquisition Corporation, Skybeam, LLC, AirCanopy, and Essex (collectively, Wireless Licensees), above the 25% benchmarks in section 310(b)(4) of the Act and section 1.5000(a)(1) of the Commission's rules.²

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. Application for the Transfer of Control of JAB Wireless, Inc., Skybeam, LLC, AirCanopy Internet Services, Inc., and Essex Telcom, Inc., to GI DI Iris Acquisition Inc., WC Docket No 22-230 (filed Jun. 10, 2022) (Application). Applicants also filed applications for the transfer of authorizations associated with wireless services. Application at 13. On July 1, 2022, Applicants filed a supplement to the domestic section 214 application. Letter from Stephen E. Coran, Counsel to JAB Wireless and Licensees, and Andrew D. Lipman, Counsel to GI DI Iris Acquisition, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-230 (filed July 1, 2022) (Supplement). Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications or matters related to the Applicants.

² 47 U.S.C. § 310(b)(4); 47 CFR § 1.5000(a)(1). JAB Wireless, et al., Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, as amended, IBFS File No. ISP-PDR- 20220610-00004 (filed June 10, 2022, 2022) (Petition). Petitioners filed supplements to the Petition on July 8, 2022, July 29, 2022, August 25, 2022, and September 28, 2022. Letter from Stephen E. Coran, Counsel to JAB Wireless and Licensees, and Andrew D. Lipman, Counsel to GI DI Iris Acquisition, to Marlene H. Dortch, Secretary, FCC, (filed Jul. 8, 2022) (on file in (continued...))

Domestic 214 Authorization Holders

JAB Wireless, a Colorado corporation, does not itself provide telecommunications services.³ The Domestic 214 Authorization Holders, all U.S. entities, are direct and indirect wholly owned subsidiaries of JAB Wireless and provide fixed wireless, fiber broadband, and digital voice services under the name, Rise Broadband, in Texas, Oklahoma, Missouri, Illinois, Indiana, Nebraska, Iowa, Kansas, Colorado, Wyoming, Idaho, Nevada, Utah, Minnesota, Wisconsin, and South Dakota.⁴ Skybeam LLC received authorization for Rural Broadband Experiment (RBE) universal service funding support in several states where it (and/or its affiliates, AirCanopy and Essex) provide services pursuant to such support.⁵ Applicants state that, “as a recipient of RBE support, (a) Skybeam LLC is an [Eligible Telecommunications Carrier] ETC in Iowa, Kansas, Nebraska, and Texas, and (b) Essex is an ETC in Illinois.”⁶

Proposed Transaction

Pursuant to an agreement dated May 28, 2022, by and among GI DI Iris Acquisition., GI DI Iris Merger Sub Inc., a newly formed company created for the purpose of completing the transaction (Merger Sub), JAB Wireless, and LStar Equity Company Holdings, L.P., Merger Sub will merge with and into JAB Wireless with JAB Wireless being the surviving entity pursuant to the proposed transaction (the Transaction).⁷ As a result of the Transaction, JAB Wireless will be a direct, wholly owned subsidiary of

IBFS File No. ISP-PDR-20220610-00004) (July 8, 2022 Supplement) (providing additional foreign ownership information); Letter from Stephen E. Coran, Counsel to JAB Wireless and Licensees, and Andrew D. Lipman, Counsel to GI DI Iris Acquisition, to Marlene H. Dortch, Secretary, FCC (filed July 29, 2022) (on file in IBFS File No. ISP-PDR-20220610-00004) (July 29, 2022 Supplement) (adding information about insulated foreign limited partners and providing revised corporate ownership structure charts); Letter from Stephen E. Coran, Counsel to JAB Wireless and Licensees, and Andrew D. Lipman, Counsel to GI DI Iris Acquisition, to Marlene H. Dortch, Secretary, FCC (filed August 25, 2022) (on file in IBFS File No. ISP-PDR-20220610-00004) (August 25, 2022 Supplement) (stating that Skybeam LLC holds only Educational Broadcast Service (EBS) and QQ special temporary authority); Letter from Stephen E. Coran, Counsel to JAB Wireless and Licensees, and Andrew D. Lipman, Counsel to GI DI Iris Acquisition, to Marlene H. Dortch, Secretary, FCC (filed September 28, 2022) (on file in IBFS File No. ISP-PDR-20220610-00004) (September 28, 2022 Supplement) (providing further explanation about the services provided by the Wireless Licensees).

³ Application at 11.

⁴ *Id.* at 2-3 and 11.

⁵ *Id.* at 3. See also *Rural Broadband Experiment Support Authorized for Ten Winning Bids for Skybeam, LLC, et al.*, WC Docket Nos. 10-90, 14-259, Public Notice, 30 FCC Rcd 8283 (WCB 2015); *Rural Broadband Experiment Support Authorized for Skybeam, LLC, et al.*, WC Docket Nos. 10-90, 14-259, Public Notice, 30 FCC Rcd 12725 (WCB 2015); *Rural Broadband Experiment Support Authorized for Skybeam, LLC*, WC Docket Nos. 10-90, 14-259, Public Notice, 31 FCC Rcd 100 (WCB 2016).

⁶ Application at 7-8. Entities must be designated as ETCs under section 214(e) of the Act, 47 U.S.C. § 214(e), to receive RBE funding. See *Connect America Fund ETC Annual Reports and Certifications*, WC Docket No. 10-90, WT Docket No. 14-58, Report and Order and Notice of Proposed Rulemaking, 29 FCC Rcd 8769, 8778, 8788, paras. 22, 54 (2014) (*Rural Broadband Experiments Order*).

⁷ Petition at 3.

GI DI Iris Acquisition.⁸ Further, the Domestic 214 Authorization Holders and Wireless Licensees will be indirect wholly owned subsidiaries of GI DI Iris Acquisition.⁹

GI DI Iris Acquisition, a newly formed Delaware limited liability company created for the purpose of completing this transaction, will be wholly owned by GI DI Intermediate Inc., a Delaware corporation that is wholly owned by GI DI Parent, LP (Iris Parent), a Delaware limited partnership.¹⁰ GI DI Iris Holdings LP (Iris Holdings), a Delaware limited partnership, holds 99.5% equity and 100% voting interests in Iris Parent.¹¹ The 10% or greater equity holders of Iris Holdings are (1) Iris Opportunity LP (Iris Opportunity), a Delaware limited partnership (32.8% equity, 0% voting), (2) GI Data Infrastructure Fund LP (GI DI Fund), a Delaware limited partnership (20.6% equity, 0% voting), and (3) GI Data Infrastructure Fund-A LP (GI DI Fund-A), a Delaware limited partnership (39.3% equity, 0% voting).¹² GI DI Iris GP LLC (Iris GP), a Delaware limited liability company, will be the general partner of Iris Holdings and Iris Opportunity (0% equity, 100% voting).¹³ GI GP DI LP, a Delaware limited partnership, will be the general partner of GI DI Fund and GI DI Fund-A (0% equity, 100% voting).¹⁴ GI GP DI LLC, a Delaware limited liability company, is the general partner of GI GP DI LP (0% equity, 100% voting) and the sole member and managing member of Iris GP (100% equity, 100% voting).¹⁵ GI Manager L.P., a Delaware limited partnership, is the sole member of GI GP DI LLC (100% equity, 100% voting).¹⁶ GI Manager Holdings LLC, a Delaware limited liability company, is the general partner of GI Manager L.P. (0% equity, 100% voting).¹⁷ GI Manager LLC, a Delaware limited liability company, is the sole member of GI Manager Holdings LLC (100% equity, 100% voting).¹⁸ GI Manager LLC is controlled by Richard Magnuson, a U.S. citizen, as trustee of the Magnuson Living Trust, a California

⁸ Application at Exh. A (Current and Post-Transaction Corporate Ownership Structure) at 3 and Exh. A (Post-Transaction Ownership Structure) at 1. GI DI Iris Acquisition does not provide telecommunications services. Application at 2. Applicants state that GI DI Iris Acquisition is affiliated with the following providers of domestic telecommunications services through persons or entities that own or control a 10% or greater, direct or indirect, interest in GI DI Iris Acquisition, all U.S. entities: (1) Clarity Telecom, LLC, d/b/a Bluepeak (Bluepeak) provides competitive local exchange carrier (LEC) and/or interexchange services in Minnesota and South Dakota and also serves as an incumbent LEC in South Dakota. *Id.* at 11-12. Applicants state that although Bluepeak and Rise Broadband have overlapping operations in approximately 40 zip codes in South Dakota, Minnesota and Wyoming, “any overlaps of Bluepeak and Rise Broadband are exclusively in areas where Rise Broadband does not offer common carrier services regulated pursuant to Section 214 of the Communications Act.” Supplement at 1; (2) Flexential Corp. provides collocation and other services in 15 states. Application at 12; (3) Single Digits, Inc. provides interconnected VoIP services in 27 states, the District of Columbia, and Puerto Rico. *Id.*; (4) Blue Stream Communications LLC provides broadband, video, and interconnected VoIP services in Florida. *Id.*; (5) ITS Telecommunications Systems, LLC (ITS) provides incumbent LEC services Florida. Supplement at 1-2. Applicants state that because Rise Broadband does not operate in Florida, there is no overlap of services with ITS. *Id.*; and (6) ITS Fiber, LLC provides competitive LEC services in Marin County, Florida. Application at 12-13.

⁹ Application at Exh. A at 3-4.

¹⁰ *Id.* at Exh A at 3 and Exh. B at 1-2.

¹¹ *Id.* at Exh. A at 3 and Exh. B at 2.

¹² *Id.* at Exh. A at 4 and Exh. B at 2-3.

¹³ Application at Exh. A at 4 and Exh. B at 3.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Application at Exh. A at 4 and Exh. B at 4.

¹⁸ *Id.*

trust that will be the managing member of GI Manager LLC.¹⁹ The only beneficiaries of the Magnuson Living Trust are Richard Magnuson, Allison Magnuson, Taylor Magnuson, and Scott Magnuson, who are all U.S. citizens.²⁰

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity and will not affect the Domestic 214 Authorization Holders' ability to meet RBE service, performance, and reporting obligations.²¹

Petition for Declaratory Ruling Under Section 310(b)(4)

The Petitioners filed the Petition pursuant to section 310(b)(4) of the Act, and section 1.5000(a)(1) of the Commission's rules, asking the Commission to find that it would serve the public interest to permit post-transaction foreign ownership of JAB Wireless, the direct controlling U.S. parent of the Wireless Licensees.

Petitioners expect that the Transaction will result in aggregate indirect foreign ownership of GI DI, JAB Wireless, and the Wireless Licensees of approximately 68%.²² This foreign ownership will arise through foreign entities that are currently or are expected to hold insulated limited partnership interests in GI DI Fund-A LP (approximately 89.3% equity in the fund) and Iris Opportunity (up to 100% equity in the fund).²³ Petitioners request up to 100% aggregate foreign ownership interest in the proposed controlling U.S. parent, JAB Wireless.²⁴

According to the Petition, upon consummation of the Transaction, no foreign individual or entity will hold a 5% or greater direct or indirect equity and/or voting interest in GI DI Iris Acquisition and Wireless Licensees.²⁵ Therefore, Petitioners do not request specific or advance approval for any foreign interest holder(s).²⁶

Non-streamlined Processing. In light of the multiple applications pending before the Commission with respect to this transaction and because the proposed transaction would involve the exchange and assumption of Universal Service Fund high-cost mechanism obligations, in order to sufficiently analyze whether the proposed transaction would serve the public interest, we accept the Application for non-streamlined processing.²⁷

Executive Branch Review. The Commission determined in the *Executive Branch Review Process Order* that it would not routinely refer to the Executive Branch applications and section 310(b) petitions "where the only reportable foreign ownership is through wholly owned intermediate holding companies and the ultimate ownership and control is held by U.S. citizens or entities."²⁸ The Commission, however, retains the discretion to refer such applications or petitions should it find that a particular application or

¹⁹ *Id.*

²⁰ Application at Exh. B at 4.

²¹ *Id.* at 4, 6-7.

²² July 8, 2022 Supplement at 2.

²³ *Id.* at 1.

²⁴ Petition at 1.

²⁵ *Id.* at 8; 47 CFR § 1.5003.

²⁶ 47 CFR § 1.5001(i); 47 CFR § 1.5001(k).

²⁷ 47 CFR § 63.03(c)(1)(v).

²⁸ *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927, 10936, 10939, paras. 25, 30 (2020) (*Executive Branch Review Process Order*).

petition may raise national security, law enforcement, foreign policy, and trade policy concerns for which it would benefit from the advice of the Executive Branch.²⁹ The parties assert that the Application and the Petition fall under this exclusion and that the Commission should not refer them to the Executive Branch agencies.³⁰ We find that the parties have made a showing that the Application and Petition come within the exclusion from referral to the Executive Branch for national security, law enforcement, foreign policy and trade policy review. While we are not referring the Application or Petition, we will provide a courtesy copy of this public notice to the Executive Branch agencies.³¹

GENERAL INFORMATION

The Application identified herein has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies.

Interested parties may file comments **on or before November 3, 2022**, and reply comments **on or before November 18, 2022**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by paper.

- Electronic Filers: Comments may be filed electronically by accessing ECFS at <http://apps.fcc.gov/ecfs/>.
- *Paper Filers*: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
 - Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.³² All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

In addition, e-mail one copy of each pleading to each of the following:

- 1) Gregory Kwan, Competition Policy Division, Wireline Competition Bureau, gregory.kwan@fcc.gov;
- 2) Fara Mohsenikolour, Telecommunications & Analysis Division, International Bureau; Fara.Mohsenikolour@fcc.gov; and
- 3) Jim Bird, Office of General Counsel, jim.bird@fcc.gov

²⁹ *Id.*

³⁰ Application at 14-15.

³¹ See *Executive Branch Review Process Order* at 10941, para. 36, n. 99; see also *id.* at 10939, para 30, n. 81.

³² Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OS 2020).

The proceeding in this Notice shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the Application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.³³ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

For further information, please contact Gregory Kwan, Wireline Competition Bureau, (202) 418-1191 or Fara Mohsenikolour, International Bureau, 202-418-1429.

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³³ See 47 CFR § 1.45(c).